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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,034	06/20/2003	Joshua T. Goodman	MS303963.1	6225

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EXAMINER	
BAYARD, DJENANE M	

ART UNIT	PAPER NUMBER
2141	

NOTIFICATION DATE	DELIVERY MODE
01/03/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/601,034	Applicant(s) GOODMAN ET AL.	
	Examiner Djenane M. Bayard	Art Unit 2141	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13, 16-19, 35-38, 40-42, 44-46, 57, 59, 61 and 62 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13, 16-18, 35-38, 40-42, 44-46, 57, 59, 61 and 62 is/are rejected.
- 7) ☒ Claim(s) 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/16/07, 11/29/07</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is in response to communication filed on 10/11/07 in which claims 1-13, 16-19, 35-38, 40-42, 44-46, 57, 59, 61-62 are pending.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 1-13, 16-19, 35-38, 40-42, 44 - 46 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. A computer programs claimed as computer listings per se, i.e., the descriptions or expressions of the programs, are not physical "things." They are neither computer components nor statutory processes, as they are not "acts" being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer which permit the computer program's functionality to be realized. In contrast, a claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory. See Lowry, 32 F.3d at 1583-84, 32 USPQ2d at 1035.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 35 recites the limitation " the number" in line 6. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-13, 16-18, 35-38, 40-42, 44-46, 57, 59, 61-62 rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application No. 20050081059 to Bandini et al.

a. As per claim 1, Bandini et al teaches a spam filtering system comprising: one or more spam filters; and a randomization component that randomizes scores of the filters for one or more messages based at least in part upon a hash computed to randomize the message score (See page 5, paragraph [0041]), the hash is computed based at least in part upon one or more features extracted from the message whose respective individual contributions to the message score exceed a threshold, thus obfuscating functionality of the spam filter (See page 5, paragraph [0038-0039]).

b. As per claims 35, 57 and 62, Bandini et al teaches a method that facilitates obfuscating a spam filter comprising: running a message through a spam filter (See page 3, paragraph [0028]); computing at least one score associated with the message (See page 5, paragraph [0038]); randomizing the score of the message before classifying the message as spam or non-spam by adding at least one of a random number or a pseudo-random number to the score of the message, the number added to the score of the message depending at least in part upon a hash of at least a portion of one or more features extracted from the message having respective contributions to the score greater than zero (See page 5, paragraph [0039-0040]); and classifying the message as spam or non-spam (See page 5, paragraph [0039]).

c. As per claim 59, Bandini et al teaches a computer readable medium having stored thereon the following computer executable components: a randomization component that randomizes scores of one or more spam filters based on at least in part upon a hash computed to randomize a message score, the hash is computed based at least in part upon one or more features extracted from the message whose respective individual contributions to the message score exceed a threshold, thus obfuscating the functionality of the spam filters so as to hinder reverse engineering the one or more spam filters (See page 5, paragraph [0039-0040]).

d. As per claim 2, Bandini et al teaches the randomization component randomizing scores of the filter so as to make it difficult for a spammer to determine whether a message that is close to a threshold and changes from being one of blocked or delivered, has changed due to one of the

following: a modification to the message and the randomization component (See page 5, paragraph [0037-0041]).

- e. As per claims 3 and 61, Bandini et al teaches wherein the randomization component comprising a random number generator that generates at least one of a random number and a pseudo-random number (See page 5, paragraph [0041]).
- f. As per claim 4, Bandini et al teaches the randomization component comprising one or more input components whereby the one or more input components provide input to the random number generator to facilitate determining what random number to generate for a particular message (See page 4, paragraph [0029]).
- g. As per claim 5, Bandini et al teaches the randomization component generating a random number based at least in part upon input received from one or more input components (See page 4, paragraph [0029]).
- h. As per claim 6, Bandini et al teaches the input from the one or more input components is based at least in part on time (See page 4, paragraph [0029]).
- i. As per claims 7 and 40, Bandini et al teaches wherein the random number generated depends on at least one of: a time of day and an increment of time; such that the number

generated changes according to any one of: the time of day and a current increment of time (See page 4, paragraph [0029]).

j. As per claims 8 and 41, Bandini et al teaches wherein the input from the one or more input components is based at least in part on at least one of a user, a recipient, and a domain receiving the message (See page 4, paragraph [0041 and 0043]).

k. As per claim 9, Bandini et al teaches wherein the random number generated depends on at least one of: a user, a recipient, and a domain receiving the message; such that the number generated changes according to any one of: an identity of the user, an identity of the recipient of the message, and the domain receiving the message (See page 5, paragraph [0043]).

l. As per claim 10, Bandini et al teaches wherein the identity of any one of the user and the recipient comprises at least one of a display name and at least a portion of an email address (See page 5, paragraph [0043]).

m. As per claim 11, Bandini et al teaches the input from the one or more input components is based at least in part on content of the message (See page 5, paragraph [0043]).

n. As per claim 12, Bandini et al teaches generated changes depending on at least a portion of the message content (See page 5, paragraph [0043]).

- o. As per claim 13, Bandini et al teaches wherein the hash value is used as the random number, whereby even a small change to the message content results in a substantially large change to the random number generated (See page 5, paragraph [0041]).
- p. As per claim 16, Bandini et al teaches wherein a hash of a sender's IP address is computed to facilitate randomizing message scores to thereby obscure the functionality of the spam filter (See page 5, paragraph [0043]).
- q. As per claim 17, Bandini et al teaches having a substantial effect on messages that border between spam and non-spam, whereby messages that are border-line spam are classified as spam at least part of the time by randomizing scores of the messages (See page 5, paragraph [0039-0041]).
- r. As per claim 18, Bandini et al teaches the randomization component mitigating spammers from finding at least one message that gets through the spam filter substantially every time it is sent (See page 5, paragraph [0039-0043]).
- s. As per claim 36, Bandini et al teaches wherein the at least one score associated with the message comprises a finalscore and a summedscore (See page 5, paragraph [0039-0043]).
- t. As per claim 37, Bandini et al teaches wherein the summedscore is a sum of all scores

associated with individual features extracted from a message (See page 5, paragraph [0039-0043]).

u. As per claim 38, Bandini teaches wherein the final score is a sigmoid function of the summedscore and corresponds to a value between 0 and 1 that indicates a probability that a message is spam or not (See page 5, paragraph [0039-0043]).

v. As per claim 42, Bandini teaches the number added to the score of the message depending at least in part upon the message (See page 5, paragraph [0039-0043]).

w. As per claim 44, Bandini teaches wherein the features used to compute the hash can randomly or non-randomly change depending on at least one of a time of day and a time increment (See page 4, paragraph [0029]).

x. As per claim 45, Bandini teaches the number added to the score of the message depending at least in part upon a hash of a sender's IP address (See page 5, paragraph [0043]).

y. As per claim 46, Bandini teaches the number added to the score of the message depending on input from one or more input components (See page 5, paragraph [0037-0043]).

Allowable Subject Matter

6. Claims 19 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Djenane M. Bayard whose telephone number is (571) 272-3878. The examiner can normally be reached on Monday- Friday 5:30 AM- 3:00 PM..

Application/Control Number:
10/601,034
Art Unit: 2141

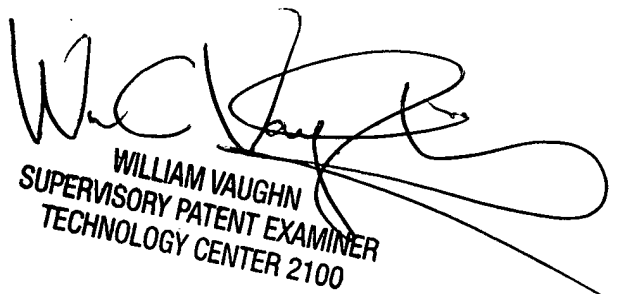
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on (571) 272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Djenane Bayard

Patent Examiner


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